

# An Analysis of the Justification for the use of Violence for Political Purposes

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## Introduction

This paper aims to analyse critically whether the use of violence for political purposes can ever be justified. It is first necessary to analyse the use of non-violent tactics in political protest so as to create a basis for comparison of the use of violence with non-violent means. This will enable us to regard violence as a different subject to that of non-violence, and a comparison will allow for a justification for both types of disobedience.

The three arguably most influential works concerning the topic of Civil Disobedience are Plato's *Crito*, Henry David Thoreau's *Civil Disobedience*, originally published as *Resistance to Civil Government*, and Martin Luther King's *Letter from Birmingham City Jail*. Whereas Socrates' argument in *Crito* is that it is wrong to disobey even an unjust law, *Civil Disobedience* and *Letter from Birmingham City Jail* endeavour to explain why it would be wrong to obey such laws. Henry David Thoreau's *Civil Disobedience* was crucial in aiding our understanding of the concept of civil disobedience and the issues faced when carrying out a form of disobedience to the law.<sup>1</sup>

Thoreau's essay stresses the necessity of putting moral obligation ahead of law:

A government in which the majority rule in all cases cannot be based on justice, even as far as men understand it ... Must the citizen ever for a moment, or in the least degree, resign his conscience to the legislator? Why has every man a conscience, then? I think that we should be men first, and subjects afterward.<sup>2</sup>

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<sup>1</sup> H. Arendt's *On Violence* was central in the study of violent behaviour as she justifies the nature of violent behaviour. G. Sorel's *Reflections on Violence* was also influential to this study as he argues for the "heroic" violent action of the proletariat as a means of saving the modern world from corruption and of recharging the capitalist spirit.

<sup>2</sup> H.D. Thoreau, "Civil Disobedience", in H. A. Bedau (ed.), *Civil Disobedience In Focus* (London: Routledge, 1991), p. 29.

Both Martin Luther King and Thoreau subscribed to the philosophy that one cannot justly obey an unjust order, and that moral doctrines must override any man-made law that would try to contradict them.

The civil disobedience of Martin Luther King, Jr. was characterized by the belief that a conscientious lawbreaker must do his deeds publicly, be prepared to accept the consequences of his actions and, above all, be non-violent. In the eyes of King, it was in no way immoral to disobey an unjust law provided you did so with a willingness also to endure the punishment specified for such an act: "In no way do I advocate evading or defying the law, as would the rabid segregationist; that would lead to anarchy. One who breaks a law must do so openly, lovingly, and with a willingness to accept the penalty".<sup>3</sup>

Civil disobedience for King was characterized, not by lawlessness but by an acute awareness of the law and a methodical protest of it. In fact King posits that this kind of disobedience "is in reality expressing the highest respect for the law".<sup>4</sup>

On October 16, 1859, John Brown led a heavily armed attack against the federal arsenal at Harper's Ferry, West Virginia.<sup>5</sup> Brown hoped that his attack would be the catalyst needed to cause slave revolt in the south, hastening the end of an abominable practice. Instead, his attack failed and he was wounded and captured two days later. Brown was tired of waiting for something to be done about slavery and decided to take matters into his own hands. On April 16, 1963, King wrote a letter from Birmingham City jail.<sup>6</sup> King had been arrested while protesting for equal civil rights. He, too, was tired of waiting for the government to grant black citizens equal footing in America and decided he was the one to take action. Though Brown and King fought for similar goals, their methods were very different. King engaged in non-violent civil disobedience, holding sit-ins and marches. Brown took armed men and attacked a federal arsenal, risking the lives of not only the men who supported him, but also the lives of the men whom he attacked. Both of these tactics are often lumped together under the umbrella of Civil Disobedience, but really the two are not at all the same. The use of violence will be distinguished below as a secular issue, requiring justification as a means of political protest.

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<sup>3</sup> M.L. King, "Letter from Birmingham City Jail," in Bedau, *op. cit.*, p. 69.

<sup>4</sup> *Ibid.*, p. 72.

<sup>5</sup> West Virginia Division of Culture and History, *John Brown and the Harpers Ferry Raid* (2005), (<http://www.wvculture.org/history/jnobrown.html>), West Virginia.

<sup>6</sup> King, "Letter from Birmingham City Jail," in Bedau, *op.cit.*, pp. 68-84.

This paper is in three parts. Part I will focus on these theories of civil disobedience, and the justification of its use as an effective means of political protest. Part II will analyse the definition of violence and attempt to distinguish it from civil disobedience, eventually culminating in a justification (if any) for the use of violence. In order to highlight the use of violence as a means of protest, specific instances where violence has occurred will be looked at in Part III. The use of violence towards property and towards people have featured in a few high profile cases such as the Seattle riots and the Ploughshares activists, both of which will be looked at in more detail below. It is necessary to analyse these instances so that a justification for the use of violence may be reached.

## **I. Theories and justifications of civil disobedience**

### **The Definition of Civil Disobedience**

“Civil disobedience” is a term that has been used in many different ways. It is now used widely for a broad range of cases of individual or group disobedience to law on conscientious grounds, despite appearing quite late. Henry David Thoreau is credited with coining the term after changing the title of his essay, first published in 1849, from “Resistance to Civil Government” to “Civil Disobedience”<sup>7</sup>, in which he claims that the individual, who grants the state its power in the first place, must follow the dictates of conscience in opposing unjust laws. For the purposes of this paper, civil disobedience will be distinguished from conscientious objection in that the primary purpose of conscientious objection is for private exemption, not political change. The concept of civil disobedience, as distinct from the phrase, has a long and notable history, appearing early as the theme of Sophocles’ Greek drama, *Antigone*,<sup>8</sup> in which a sister of two brothers, killed in a war, buries the brother considered to be a failure, despite being against society’s law, and in Aristophanes’ comedic anti-war play, *Lysistrata*,<sup>9</sup> in which the women of Athens, weary of the ongoing

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<sup>7</sup> N.L. Rosenblum, (ed.), *Political Writings* (Cambridge University Press, 1996), p. 1.

<sup>8</sup> L. Smith, *Antigone: A Tragedy of Civil Disobedience or Anarchy?* (1999), [http://www.scs.k12.tn.us/STT99\\_WQ/STT99/Bolton\\_HS/smith159/LindaSmith/antquest.htm](http://www.scs.k12.tn.us/STT99_WQ/STT99/Bolton_HS/smith159/LindaSmith/antquest.htm). The burial of Antigone’s brother, Polyneices, was her own defiance to society’s law, as Polyneices had been planning to loot and destroy Thebes, and also killed Antigone’s older brother Eteocles. King Creon ordered that Polyneices should not have a burial as he was a traitor. Antigone buried her brother and by doing so condemned herself to death.

<sup>9</sup> G. Jarvis, *Thoreau, Lysistrata and Jesse Jackson* (2003), <http://www.lewrockwell.com/jarvis/jarvis41.html>.

war refuse to have contact<sup>10</sup> with their husbands until they cease fighting. The conflict between civil law and conscience has also been highlighted in many well-known historical events, particularly, the Jewish passive resistance to the introduction of icons into Jerusalem by Pilate,<sup>11</sup> the refusal by the poet John Milton to obey licensing and censorship laws of seventeenth-century England,<sup>12</sup> and the resistance to the institution of slavery by the abolitionists in nineteenth-century America<sup>13</sup> in the days before the civil war.

The concept of civil disobedience presupposes, first of all, some formal structure of the law, enforced by established governmental authorities, from which an individual cannot dissociate himself except by change of citizenship. It is not necessary, however, that an individual ultimately accepts the governmental framework in which he acts disobediently; he may be accepting it conditionally at a given time as a necessary, but temporary, fact of life or as a step in the direction towards a framework which he accepts. Civil disobedience, for the purposes of this paper, will be defined as the refusal to obey the demands or commands of a government or occupying power without resorting to violent measures of opposition. The term, civil disobedience is not a precise one for it attempts to bring together two ideas. One describes an action: disobedience, usually meaning disobeying someone in authority. The other describes the manner of disobeying: civil, that is, it is not just any kind of disobedience. The notion of civility can be understood in two ways: (1) as the disobedience of civil, that is political, authorities and/or (2) as disobedience carried out in a civil manner. To say that disobedience is carried out in a civil manner can also be understood in two ways: (1) the disobedience is carried out in a respectful way and (2) the one disobeying recognizes the legitimacy of the authority being opposed. The three criteria for Civil Disobedience, as set out by King are that it must be done "openly, lovingly, and with a willingness to accept the penalty".<sup>14</sup>

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<sup>10</sup> The contact between a husband and wife was legally required for the purposes of the play. Therefore, by refusing contact, the women were defying the law.

<sup>11</sup> T.C. O'Neill, *Pontius Pilatus* (2000), <http://www.geocities.com/Paris/Salon/2385/pilate.html>.

<sup>12</sup> Books and Writers, *John Milton* (2000), <http://www.kirjasto.sci.fi/jmilton.htm>.

<sup>13</sup> K. K. Sklar, *Life in Nineteenth Century Ohio* (224), <http://lcweb2.loc.gov/cocoon/ihas/html/ohio/ohio-sklar.html>.

<sup>14</sup> King, "Letter from Birmingham City Jail," in Bedau, *op. cit.*, p. 72.

Non-violence and non-violent action, by their appearance, simply mean “not violence” and “not violent action”. It is a short mental jump to presume that they are everything violence and violent action are not. Since the latter are associated with force, power, and strength<sup>15</sup>, the former must be the absence of these attributes. A direct form of civil disobedience will be taken to mean, in this paper, my refusal to obey a law or decree, because I consider it unjust, want to call attention to its injustice and hope to bring about its repeal or amendment.

Mohandas Gandhi introduced the concept of *Satyagraha*, roughly translating as “the force that is generated through adherence to Truth”<sup>16</sup> and taken from the notion of non-violence. Using the tenets of *Satyagraha*, he led the campaign for Indian independence from Britain in the 1930’s, in particular, by the use of non-cooperation and civil disobedience. Gandhi recognized that the credibility of resistance, based on declared moral principles, is maintained only so long as conduct, unconditionally if imperfectly, adheres to those principles. Any gap between intention and conduct leaves the civil resister open to charges of duplicity or hypocrisy. For civil resistance to merit the title the *Satyagraha* can feel no anger and no violence towards his oppressor, however much he may be assaulted. His refusal to resist arrest testifies to his loyalty to law just as his civil disobedience bears witness to injustice. Gandhi believed that, if no individual or group could claim absolute knowledge of the truth, no one should use violence to compel others to act against their different, but also sincere, understanding of it.

In addition to this definition, it is not required that the civilly disobedient act breaches the same law that is being protested. The defiance may also take the form of disobedience of just laws if such disobedience appears to be an effective way to focus public attention on unjust laws while also allowing for direct and indirect disobedience. Whether or not breaking a law amounts to civil disobedience depends on both the nature of the law and the purpose of the violator. Without conscious resistance, on the one hand, and an unjust law to resist, on the other hand, there can be no civil disobedience - at least in the moral, Thoreauvian sense of the word.

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<sup>15</sup> Highlighted further in H. Arendt, *On Violence* (Harcourt Brace and Co., 1970), p. 44.

<sup>16</sup> A.J. Parel, *Gandhi, Freedom and Self-Rule* (Lexington Books, 2000).

## Political Obligation

It is important to determine political obligation towards the State before justifications of civil disobedience may be analysed. If we start from the premise that, when considering whether or not to obey a law, we conduct a rational assessment of the advantages and disadvantages of doing so, we might include in the advantages some sort of "obligation" to obey, which, some argue, has been instilled in us during the socialisation process. There is a distinction between having an obligation and being obliged, illustrated by Hart.<sup>17</sup> Hart uses the robbery of a bank to emphasize the difference. If a gunman orders a clerk to hand over the money with a credible threat on the clerk's life if he does not comply, the clerk would be perceived as being obliged to hand over the money; however, to say that the clerk had an obligation would be a misinterpretation. Being obliged is a statement regarding the beliefs and motives with which an action is done, whereas having an obligation refers to the legal duty and moral principles behind an individual's actions. The first discussion of having political obligation in Western philosophy is thought to be found in Plato's *Crito*.<sup>18</sup> Socrates, condemned to death by the Athenian democracy, had to decide whether to take an opportunity to escape, arranged for him by friends. Although Socrates knew he was innocent, his belief was that it was never right to return a wrong with another. Socrates confronted several arguments for the position that it would be an act of injustice for him to escape, the first being a paternal conception of the State, according to which citizens are the children of the State, owing their existence and upbringing to the State, and that violence against the State was akin to, but greater than, a sin against one's own parents. Socrates also considered that acts of disobedience would destroy the State and its laws and that, by remaining in Athens upon adulthood, he agreed, not by what he had said but, by what he had done to obey the laws of the State.<sup>19</sup>

## The Rule of Law

This principle is the cornerstone of stable society because every person, group or social entity needs, at any time, to be able to determine what the rules are on any given matter and to act within them or to try to

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<sup>17</sup> H.L.A. Hart, (1994) *The Concept of Law*, 2<sup>nd</sup> ed., (Clarendon Press, 1994), p. 42.

<sup>18</sup> R.M. Stewart, *Readings in Social and Political Philosophy*, 2<sup>nd</sup> ed. (Oxford University Press, 1996).

<sup>19</sup> Stewart, *op. cit.*, p. 11.

change them. It represents a basic misconception of the principle of the “rule of law” itself to say that it means that everyone absolutely must obey the law until the law can be changed by the appropriate processes. Indeed, that conception of the rule of law would forbid civil disobedience. But how can we have the rule of law if we accept something like that? How can ordinary people judge for themselves whether a law is just or not? The answer is that they have to, and that is simply the principle of moral conscience. The rule of law is not contrary to that for it is not an injunction to blind obedience. Instead, it is a principle of the limitation of the authority of government.

Obedying the law is not a value in itself but a simple everyday technical duty, as long as it conforms to the social order and the correctness of the regime. But, since every political establishment is the potential enemy of civil liberties, and even of the rule of law itself, one should be on one’s guard and, if necessary, the technical duty of obeying the law should be replaced with a duty, the purpose of which is to change the law. Obeying the law is not the result of moral deliberation but a necessary condition for safeguarding the values, which are at the heart of democracy, and the delicate balance in the relationship between government and citizen. This being so, a responsible citizen would normally give priority to obeying the law and, in an emergency, to breaking it.

## **Democratic Society**

A democratic regime is a political order which is intended to give maximal expression to the will of the citizens within the framework of the rule of law, while safeguarding human rights.<sup>20</sup> Democracy is not just a formal expression of a form of government but also the expression of a moral outlook whereby the individual should form his personal, public and political destiny himself or herself. Democracy is based on the idea that the majority will decide who will stand at its head and in what way; it includes legally recognized rights and values protected by law (e.g., certain freedoms of the individual, freedom of expression, organization, movement and occupation). It has been argued that civil disobedience cannot be justified in a democratic society as the law has been enacted by Parliament and, so, breaking it amounts to a rejection of parliamentary

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<sup>20</sup> J. Lively, *Democracy* (Basil Blackwell Ltd., 1990), p. 12.

democracy.<sup>21</sup> Unjust laws made by a democratic legislature can be changed by a democratic legislature and the existence of lawful channels of change makes civil disobedience unnecessary.<sup>22</sup> However, Thoreau, who performed civil disobedience in a democracy, argued that sometimes the constitution is the problem, not the solution.<sup>23</sup> Moreover, legal channels can take too long, he argued, for he was born to live, not to lobby. His individualism gave him another answer: individuals are sovereign, especially in a democracy, and the government only holds its power by delegation from free individuals. Any individual may, then, elect to stand apart from the domain of law.

The American philosopher, Robert Paul Wolff, has provided a defence for the individualist position, arguing that each person had, not only a right but also, a duty to decide for himself/herself whether or not to do something merely because he/she has been told to do so. Wolff argued that a legal command should not be adhered to simply because it is legal and that obeying such a command on the basis that it is legal would be a replacement of one's own moral reasoning with that of the State.<sup>24</sup>

Martin Luther King, Jr., who also performed civil disobedience in a democracy, asks us to look more closely at the legal channels of change. If they are open in theory, but closed or unfairly obstructed in practice, then the system is not democratic in the way needed to make civil disobedience unnecessary. Other activists have pointed out that, if judicial review is one of the features of democracy, which is supposed to make civil disobedience unnecessary, then it ironically subverts this goal for to obtain standing to bring an unjust statute to court for review, often an applicant must be arrested for violating it. The Nuremberg principles also require disobedience to national laws or orders which violate international law, an overriding duty even (or perhaps especially) in a democracy.

It can also be argued that legal channels can never be "exhausted". Activists can write another letter to their congressional delegation or to newspapers; it is possible to wait for another election and cast another vote. But justice delayed, as King proclaimed, is justice denied. After a point, according to him, patience in fighting an injustice would perpetuate the injustice, and this point had long since been passed in the 340-year

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<sup>21</sup> J. Waldron, *The Law* (Routledge, 1990).

<sup>22</sup> P. Suber, *Civil Disobedience* (1999), <http://www.earlham.edu/~peters/writing/civ-dis.htm>, Indiana.

<sup>23</sup> N.L. Rosenblum, *op.cit.*, p. 32.

<sup>24</sup> J. Waldron, *op.cit.*, p. 157.



struggle against segregation in America. In this tradition, A.J. Muste argued that to use legal channels to fight unjust laws would be to participate in an evil machine and to disguise dissent as conformity; this in turn would corrupt the activist and discourage others by leading them to underestimate the numbers of their congeners.<sup>25</sup> With regards to violence, he also argued that the survival of democracy depended on the renunciation of violence and the development of non-violent means to combat evil and advance the good.

Civil disobedience is somewhat at odds with democratic government, but it can be argued that it is not fully incompatible with it. The tension with democracy is fairly obvious: democracy only works when a community is able to pass laws with the understanding that all will abide by what the majority desires. Thoreau completely rejects the idea that a person should ever compromise or tolerate a policy he or she did not want. While this is feasible in the case of a few individuals, if Thoreau's approach is generalized, then society would fall apart. However, there is still some sense in which civil disobedience is compatible with democracy. First, Thoreau is not advocating that people simply deny the existence of unjust laws. Thoreau says that protesters will be likely to have to pay for the consequences of their actions. This will force society to decide whether it is willing to have all of its just citizens in jail. And, if it is willing to allow this, then jail is the only place for good persons to be. Thoreau, then, does not recognize the moral authority of unjust laws (and he, therefore, encourages people to violate them), but he does accept their legal authority; thus, he accepts that he may be put in jail. Secondly, while his principle is dangerous if universalised, it is much more benign if people are violating only unjust laws. For unjust laws are usually themselves undemocratic. Unjust laws disenfranchise people, do not recognize due process and/or do place unfair burdens on certain segments of the population. It is a paradox of democracy that democratic institutions can produce laws that violate democratic principles. It remains debatable whether this paradox undermines the democratic process as a whole.

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<sup>25</sup> A.J. Muste Memorial Institute, *A.J. Muste* (2005), <http://www.ajmuste.org/>, New York.

## Justifications of Civil Disobedience

Assuming that the notion of civil disobedience is reasonably clear, the question immediately arises as to whether it can ever be justified. For some philosophers, such as Hugo Adam Bedau, Gandhi and King, civil disobedience is justified by definition, highlighted by King's criteria for it. Provided that it is carried out openly and lovingly and there is an acceptance of the consequences, civil disobedience is justified.

The two most important justifications in tradition have been the higher law doctrine and the notion of natural rights. The higher law doctrine asserts that God's law takes precedence over civil law when it can be shown that the two come into conflict. According to transcendentalists such as Theodore Parker<sup>26</sup> and George William Curtis,<sup>27</sup> the higher law doctrine says that men are morally equal and any law, deemed to be so thoroughly immoral that it must be publicly disobeyed, should be in the interests of all fellow men. The transcendentalists believe that any person who obeys a law simply because it is a law is utterly immoral, arguing that the vilest crimes are often committed on the excuse of following orders of a legally constituted superior. The transcendentalists argue this point by stating that, if the colonials had obeyed the law, they would not have thrown crates of tea into Boston Harbour and there would not have been a United States of America as we know it today.<sup>28</sup>

The notion of natural rights usually involves an absolutistic and rationalistic outlook in moral philosophy and is usually based on a theological foundation such as "God-given" rights. Since society does not provide these rights, they cannot justifiably be taken away as the function of society, far from interfering with these rights, is to sustain and protect them and to adjudicate in any conflict with them. The theory of natural rights strongly supports Thoreau's contention that a majority vote cannot decide what is right or wrong, and helps to put the concept of democracy in a better perspective.<sup>29</sup> Thoreau states that only an individual can have and exercise a conscience. However, by definition, both the State and

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<sup>26</sup> J. J. n Lewis, *What is Transcendentalism?* (2002), <http://www.transcendentalists.com/what.htm>.

<sup>27</sup> Bookrags, *Biography of George William Curtis* (2005), <http://www.bookrags.com/biography-george-william-curtis/>.

<sup>28</sup> National Society Daughters of the American Revolution, *The Boston Tea Party* (1999), [http://members.aol.com/massdar/Massachusetts\\_DAR/chest.htm](http://members.aol.com/massdar/Massachusetts_DAR/chest.htm).

<sup>29</sup> Discussed further below, under "Democratic Society".

corporations are impersonal, amoral entities that are nonetheless composed of individuals. As highlighted in Thoreau's essay, "a corporation has no conscience; but a corporation of conscientious men is a corporation with a conscience".<sup>30</sup> An individual has a right and an obligation to "do at any time" what he deems right, to exercise his own conscience by refusing involvement or complicity in a government that enforces unjust policies. Thoreau argues that civil disobedience is a necessary expression of individual conscience and morality, an attempt to reconfigure the relationship between the individual and the State by making the latter more equitable and less burdensome in its treatment of the former. While supportive of democratic principles, Thoreau does not believe in settling questions of fundamental moral importance by majority opinion.

Civil disobedience is a powerful weapon but, to be effective, it must be exercised by a large number of individuals. There is a calculated risk involved: the breach of law, whether in a totalitarian state or not, automatically justifies and involves punishment by the government - jail, fines, even death. But, if civil disobedience can be organized on a mass scale, it progressively becomes less profitable for the government to carry out its sanctions. The official British reports on the 1930 campaign testify to a government's dilemma in this regard: "... arrests were rendered impracticable owing to the size of the crowds which had committed breaches of some particular law".<sup>31</sup> The threatening nature of civil disobedience to a government was most cogently summarized by Lord Irwin, the Viceroy, in a speech to the legislative council in 1930:

... the [non-violent resistance] campaign is a deliberate attempt to coerce established authority by mass action... Mass action, even if it is ... non-violent, is nothing but the application of force under another form, and, when it has as its avowed object the making of Government impossible, Government is bound either to resist or abdicate.<sup>32</sup>

This argument against civil disobedience is one of a practical issue, and appears to point to a likening of civil disobedience to acts which

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<sup>30</sup> Rosenblum, *op.cit.*, p. 2.

<sup>31</sup> J. M. Tinker, *The Power of Non-Violent Resistance* (1987), <http://www.voluntaryist.com/articles/027b.php>.

<sup>32</sup> V. Lal, *Study of Indian History* (2000), [http://www.sscnet.ucla.edu/southasia/History/Independent/Histbiblio\\_indepindia.html](http://www.sscnet.ucla.edu/southasia/History/Independent/Histbiblio_indepindia.html).

advocate the use of violence, highlighting the common factor of the application of force between violent and non-violent action.

However, so far as civil disobedience is addressed, according to John Rawls, to the sense of justice of a community, it is justified when it is directed against the cases of serious violation of basic rights evident to all.<sup>33</sup> There appears to be five main themes for Rawls' justification of civil disobedience. He asserts that:

the laws to which we object must be *substantial* and *clear* violations of justice;  
normal constitutional routes must have been tried and failed;  
the level of disobedience in the society must not have reached a threshold (a level where it threatens the very goal of a rule of law);  
the action must be controlled ; and  
the exercise should be rationally framed to advance the ends addressed.<sup>34</sup>

In Plato's *Crito*<sup>35</sup> Socrates is encouraged by his friend Crito to disobey the law by escaping from prison before he is executed. Thoreau and Mohandas Gandhi both reply (as part of larger, more complex replies) that those who object deeply to the injustices committed by the State can, and should, relinquish the benefits they receive from the State by living a life of voluntary simplicity and poverty; this form of sacrifice is in effect to revoke one's tacit consent to obey the law. Another of Thoreau's replies is that consent to join a society and obey its laws must always be express, and never tacit. But even for John Locke,<sup>36</sup> whose social contract theory introduces the term, "tacit consent", the theory permits disobedience, even revolution, if the State breaches its side of the contract.

A reply from the natural law tradition, used by Martin Luther King, is that an unjust law is not even a law, but a perversion of law: "A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law."

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<sup>33</sup> S. Freeman, (ed), *John Rawls Collected Papers* , 1<sup>st</sup> ed. (Harvard University, 1999), p. 176.

<sup>34</sup> *Ibid.*, p. 136.

<sup>35</sup> Bedau, *op cit.*, p. 13.

<sup>36</sup> Christians in Exile, *Corruption and Civil Disobedience* (2001), <http://www.exilemm.com/e03-corruption-civildisobedience.shtml>.

Moreover, with reference to the terms of St. Thomas Aquinas, “an unjust law is a human law that is not rooted in eternal and natural law”.<sup>37</sup>

Hence, consent to obey the laws does not extend to unjust laws. King also argued that “one has not only a legal, but a moral responsibility to obey just laws” and, conversely, “a moral responsibility to disobey unjust laws”.<sup>38</sup> It may also be argued that the duty to obey is a matter of degree. If one is not a fully enfranchised member of society, then one should not be fully bound by its laws and that disobedience of the law is justified by appealing to the principle of necessity. It may also be argued that civil disobedience is a useful mechanism for highlighting unjust laws if it does not lead to serious social disorder and does not explode the efficacy of a just constitution and respect for the rule of law.

Governments arise on the basis of a mutual understanding between the governed and the sovereign. Accordingly, the obligation of government remains to the people, and the people owe an allegiance to the government. Although the compromise appears to uphold both parties’ needs, conflicting needs result in problems. When a government acts in direct opposition to the needs of the people, the people maintain a certain responsibility to act. Civil Disobedience remains universally moral to safeguard the basic civil liberties of individuals. Through acting selflessly or for the benefit of society, actions maintain this moral intent. As King explains, “mankind must evolve for all human conflict a method which rejects revenge, aggression, and retaliation”. By denying laws that promote vices like inequality and hatred, civil disobedience improves society and, thus, upholds morality. Moral justification of civil disobedience lies within the altruistic improvement of society. Other than moral justification, civil disobedience remains socially justified. Unjust laws and oppression often live on unchecked by government, whereupon the people must take a stand against such injustice. According to Thoreau in *Civil Disobedience*, “it is not desirable to cultivate a respect for the law, as much as for the right” if injustice is more than just “friction” in the “machine of government”; but, if respect for the law “requires you to be the agent of injustice to another”, then it may be desirable to break the law.<sup>39</sup>

The chosen few who possess the passion and bravery to protest publicly against unjust laws, regardless of opposition and consequence,

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<sup>37</sup> R. De Souza, *Free at Last, Thank God Almighty, I am Free at Last* (1999), <http://www.priestsforlife.org/government/98-04-05-11kingarticle.htm>; Bedau, *op cit.*, p. 73.

<sup>38</sup> See Bedau, *op cit.*, p. 76.

<sup>39</sup> Bedau, *op cit.*, p. 35.

justify the effectiveness of civil disobedience solely on their shameless strength of character. For example, Antigone fully accepts her fatal punishment in return for burying her brother against King Creon's will: "This death of mine is of no importance; but if I had left my brother lying in death unburied, I should have suffered. Now I do not."<sup>40</sup> Antigone rallies no proponents to her cause, but continues directly to oppose Creon simply to appease her own conscience. Antigone's extraordinary ability to avoid conforming to wrongful practices of her kingdom reflects her abominable will and bravery to protest. In addition, Thoreau presents radical ideas concerning the basis of civil disobedience with his prophetic motto, "That government is best which governs not at all."<sup>41</sup> Glorifying the inherent abilities of the individual, Thoreau uses logical reasoning to openly criticize American democracy and the trivial stipulations entailed with government. Thoreau's outspoken methods to denounce the all-powerful government of the "land of the free" convey courage, intelligence, and innate leadership. Both Antigone and Thoreau justified civil disobedience, not by its effectiveness or public acceptance, but by exerting bravery and nonconformity to exercise their natural right to oppose laws if their conscience is violated.

Because civil disobedience only exists to change unjust laws, it remains important in the law-making process. Checks and balances used ardently in government extend further than simply the executive, judicial, and legislative branches. Individuals exist as the final check on the power of government. Immoral policies that leak through the three branches must be corrected by the governed. Only through civil disobedience does political progress become a guarantee.

The issue of violence and its distinction from civil disobedience will now be addressed.

## **II. Violence and civil disobedience**

### **Definition of Violence**

To say that, at least in most cases, civil disobedience is justified gives rise to the question of what form it should take. Should it always be non-violent in nature or is the use of violence ever justified? To restrict the concept of disobedience to non-violent acts seems to ignore the

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<sup>40</sup> L. Smith, *Antigone: A Tragedy of Civil Disobedience or Anarchy?* (1999), [http://www.scs.k12.tn.us/STT99\\_WQ/STT99/Bolton\\_HS/smithl59/LindaSmith/antquest.htm](http://www.scs.k12.tn.us/STT99_WQ/STT99/Bolton_HS/smithl59/LindaSmith/antquest.htm).

<sup>41</sup> Rosenblum, *op cit.*, p. 150.

difficulty of finding a precise dividing line between “violence” and “non-violence”. Violence is a general term used to describe actions, usually deliberate, that cause or intend to cause injury to people, animals or non-living objects, often being associated with aggression. There are essentially two kinds of violence: random violence, which describes small-scale acts of unexpected violent behaviour, and co-ordinated violence, which describes actions carried out by sanctioned or unsanctioned violent groups, such as war, terrorism and large-scale acts of disobedience.

That apart, it is important to determine the different degrees of violence that can be carried out before starting an analysis of its justification. Mosesson has drawn up a “Beaufort Scale”<sup>42</sup> of the degrees of violence with regards to disobedience:

- lawful public criticism of the law or policy, followed by submission to the processes of the law;
- taking test cases to the courts to have the legality or “constitutionality” of the law or action determined;
- non-resistance or conscientious evasion;
- non-cooperation - involving a deliberate withdrawal from the State, renouncing benefits and burdens of membership;
- conscientious refusal;
- civil disobedience;
- violent resistance and protest;
- rebellion; and revolution.

He stresses that these nine types of violence are not exhaustive, and that they merely provide a distinction as to how someone may make evident their protest.

Having discussed lawful public criticism through to civil disobedience, we will analyse now violent resistance and protest. There are many arguments against the use of violence for political purposes, primarily due to the success of non-violent resisters such as King, Gandhi and Thoreau. Recent events have also cast a shadow over the debate, such as the ‘Carnival against Capitalism’<sup>43</sup> in London in 1999, which descended into self-indulgent violence and destruction of property in the city,

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<sup>42</sup> L. Mosesson, *The Natural Law of Human Rights* (Unpublished PhD Thesis, University of London, 1983), p.248.

<sup>43</sup> Thrall, *Wellington's Carnival Against Capitalism Returns* (2000), <http://free.freespeech.org/thrall/14s26.html>.

achieving nothing but notoriety for its cause. The racist attacks on the Chinese in the Indonesian riots<sup>44</sup> also demonstrate how civil disobedience can break down into lawlessness and, indeed, can be counter-productive by associating the cause with terror and violence. It has also been argued that too often violence is directed against innocent members of the public or against the police, often causing serious injuries. The Broadwater Farm riots<sup>45</sup> and the miner's strike<sup>46</sup> are both instances where groups have injured or killed policemen. Animal rights activists and anti-abortion campaigners have also been noted for their violence in the past.

Leon Trotsky, Malcolm X and Frantz Fanon were fervent critics of non-violence used by Gandhi, King and Thoreau, arguing variously that non-violence and pacifism are an attempt to impose the morals of the "bourgeoisie upon the proletariat", and that violence is a necessary accompaniment to revolutionary change or that the right to self-defence is fundamental. In the midst of the violent oppression of radical African Americans in the 1960's, Black Panther, George Jackson, said of the non-violent tactics used by Martin Luther King:

The concept of non-violence is a false ideal. It presupposes the existence of compassion and a sense of justice on the part of one's adversary. When this adversary has everything to lose and nothing to gain by exercising justice and compassion, his reaction can only be negative.<sup>47</sup>

Malcolm X also clashed with civil rights leaders over the issue of non-violence, arguing that violence should not be ruled out when no other

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<sup>44</sup> BBC News, *Appeal for halt to racist attacks in Indonesia* (1998), <http://news.bbc.co.uk/1/hi/world/asia-pacific/56608.stm>.

<sup>45</sup> On 5 October 1985 Home Beat officers were attacked and seriously injured by a brick-throwing crowd. Following a protest meeting where responsible community leaders proposing a motion of complaint were shouted down, a police inspector driving past the estate was attacked and had his car window smashed. A police van answering a 999 call was surrounded, attacked and severely damaged by a mob with machetes, bars and knives. By the time the first riot control police arrived the mob had put up barriers and prepared petrol bombs. Cordons of police officers in riot gear with long shields were forced to withstand a prolonged attack from rioters, including gunfire, until the estate was restored to order some hours later. At 9.30pm a fire was seen in a newsagent's on the first floor 'deck' of Tangmere block and attempts to support the firemen trying to put it out led to the murder of PC Blakelock. See Metropolitan Police, *Broadwater Farm* (1999), [http://www.met.police.uk/history/broadwater\\_farm.htm](http://www.met.police.uk/history/broadwater_farm.htm).

<sup>46</sup> World Socialism, *The Miner's Strike – Why* (1998), [http://www.worldsocialism.org/spgb/centenary/miners\(1984\).pdf](http://www.worldsocialism.org/spgb/centenary/miners(1984).pdf).

<sup>47</sup> M. King, *Mahatma Gandhi and Martin Luther King: The Power of Non-violent Action* (United Nations Educational, 1999), p. 256.



option remained. With particular reference to the brutality suffered by African Americans in the 1960's, he said: "Concerning non-violence, it is criminal to teach a man not to defend himself when he is the constant victim of brutal attacks."<sup>48</sup>

One of the possible reasons, for which such criticisms are levelled against non-violence, is that it tends to be a slow, gradual means of achieving political change and, thus, the connection between action and effect is less apparent than for violence. Another possible reason is that there are many different non-violent strategies and selecting strategies, which work in a particular situation, can be difficult; hence, non-violence does not always succeed - even though the same is true for violent means of social change. Advocates of non-violence have argued that many critics of non-violence focus their critique on the moral justifications for non-violence while neglecting to examine the practical political advantages of non-violence as a technique for social struggle. Some critics falsely tend to ignore the historical success of non-violence against dictators and repressive governments. The specific criticism that non-violence is a form of passivity can be countered by noting that successful non-violent campaigns have often centred around actively depriving a ruling regime of financial income (for example, Gandhi's breaking of the salt tax) or the co-operation necessary to run industrial infrastructure. In this context non-violence can be viewed as a form of attack on the command structure of a government or regime, rather than upon its personnel, whereas violence, in particular towards people, can be viewed as a form of physical attack upon its personnel.

Like any distinction, the distinction between violence and non-violence is not always clear-cut. What about violence against property? What about a non-violent technique that leads to physical harm, such as a strike by maintenance workers that leads to people being hurt in accidents? In any case, the main distinction is clear enough. Military methods are based centrally on using violence against people and property. Non-violent methods are built on refusing to co-operate without causing physical harm to others.

## Justification

John Morreall discusses the justifiability of violence in civil disobedience and begins by assuming that most cases of non-violent

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<sup>48</sup> Wikipedia, *Non-violence* (2005), <http://www.absoluteastronomy.com/encyclopedia/N/No/Nonviolence.htm>.

disobedience, such as sit-ins and boycotts, are justifiable. He asserts that violence can only occur to people, not inanimate objects, and states:

... there is nothing which makes any act of physical violence any more unjustifiable in principle than acts of interfering with another's control over his property, or acts of coercion. If what has traditionally passed as civil disobedience can be justified at all, I submit, there is nothing which rules out justifying acts of civil disobedience that involve physical violence.<sup>49</sup>

Those who oppose violence on moral grounds cite the intrinsic value or sacredness of human life, which must not be violated by hurting or killing. Many also consider violence unethical because it provokes division and resentment, countering a non-violent vision of peace and human oneness. Those who oppose violence on practical grounds suggest that means must be consistent with ends: if our ends are peace and justice, then our means must be peaceful and just. But, as highlighted by Peter Singer, "the difficult issue is not whether the end can ever justify the means, but which means are justified by which ends".<sup>50</sup> Non-violent theorists believe that the failure to achieve open, democratic societies in Russia, China or Cuba is attributable in part to the armed methods used in the revolutions of these countries. Because armed struggle requires centralization of power and undemocratic methods, armed struggle cannot lead to a democratic and just society. Practical opposition is also based on the argument that violence does not resolve conflicts and does not get at the root of social problems. At best, violence allows one party to impose a temporary solution upon other parties. Violent methods often create more problems than they solve, leading to an expanding cycle of violence and bitterness.

Non-violent action challenges and undermines the cycle of violence. If one side in a struggle renounces violence, then soldiers on the other side need not fear for their lives. This means that it becomes much harder for the commanders on the side still authorising the use of violence to actually get soldiers to obey orders to use it. One of the most famous uses of non-violent action was the struggle for independence, waged under the leadership of Gandhi. This struggle went on for several decades until independence was achieved in 1947. Some of the methods used were

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<sup>49</sup> J. Morreall, "The Justifiability of Violent Civil Disobedience," in Bedau, *op. cit.*, p. 139.

<sup>50</sup> P. Singer, (ed.), *Ethics* (Oxford University Press, 1994), p. 256.

rallies, marches, boycotts of British textiles, Indian production of cloth in villages as a symbol of autonomy and civil disobedience of laws prohibiting manufacture of salt. On the Indian side the independence campaign was largely, though not entirely, non-violent. The British, in turn, did use violence at times; for example, there were some major massacres of unarmed civilians and thousands of Indians killed overall. However , the British were seen to be remarkably restrained. Many people attribute this restraint to the British being particularly kind colonialists. Other evidence suggests a different view. In Kenya, another British colony, the independence movement in the 1950s, called the Mau Mau rebellion,<sup>51</sup> had an armed wing. British settlers carried out the most dreadful violence on the native Kenyans, perpetrating massacres and setting up dozens of concentration camps in which anyone suspected of being a Mau Mau was liable to be tortured relentlessly, leading to numerous deaths. The obvious explanation for the difference between British behaviour in India and in Kenya is that the limited armed struggle by the Mau Mau provided a justification for massive British violence. By maintaining non-violent discipline, the Indian independence movement inhibited British violence.

Against People

For the purposes of this paper, it is important to distinguish between the different definitions of the degrees of violence in order to determine which types of violence may be, if at all, justified. It can be seen from the following scale that violence to property is considered to be more non-violent than violence to people:

violence						non-violence
physical harm to people	physical harm to other living creatures	psychological harm	physical harm to non-related property	physical harm to related property	minor physical harm to infrastructure	no physical or psychological harm to living creatures or materials whatsoever

<sup>51</sup> Royal African Society, *Histories of the Hanged: Reparations, Reconciliation & The Mau Mau War* (2004), [http://www.royalaficansociety.org/what\\_we\\_do/recent\\_meetings/histories\\_maumau](http://www.royalaficansociety.org/what_we_do/recent_meetings/histories_maumau) .

At the protests in Prague on September 24, 2000 against the International Monetary Fund and the World Bank,<sup>52</sup> demonstrators threw “Molotov Cocktails” (fire bombs) at the police. However, although it may be argued that the police function as tools of the ruling class, they are not comparable to a device with the ability to cause intentional harm such as a missile – they are not destructive property deserving harm.

“War is Peace” was the slogan of the Big Brother state in George Orwell’s *Nineteen Eighty-Four*.<sup>53</sup> A useful analogy for and against the use of violence for political purposes against people is the issue of war and peace. The distinction between war and peace has been widely debated over the centuries but, for Aristotle, the distinction was clear: “We make war that we may live in peace”, he wrote in the *Nicomachean Ethics*.<sup>54</sup> Many theologians and political philosophers throughout the centuries would agree with Aristotle that at times war is necessary and, indeed, morally justifiable. The “just war” tradition, developed in the West over nearly two millennia, seeks to place moral restraints on warfare by establishing criteria for determining when and how to wage war justly.

Augustine of Hippo (354-430) is generally acknowledged as the first to offer a sustained treatment of war and justice in his masterpiece, *The City of God*. While loathing the destruction and loss of life that attend war, Augustine nonetheless believed that a “just war” might be preferable to an unjust peace. He draws on the apostle Paul’s New Testament injunction to submit to governing authorities, “who do not bear the sword for nothing”.<sup>55</sup> Augustine recognized biblical mandates for individuals to love their neighbours (to the point of renouncing self-defence) even while defending their government’s duty to preserve civic peace and to secure justice. According to him, use of force is necessary, though always regrettable, in a fallen world in order to restrain evil, but that its ultimate goal must be to restore peace.

Aquinas (1225-74) significantly contributed to the development of the just war theory in his *Summa Theologica*<sup>56</sup> in the 13<sup>th</sup> century. He formalized three criteria for a just war:

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<sup>52</sup> Universal Source, *WTO Protest Prague* (2005), [http://www.universalsource.co.uk/show\\_article.php?id=86](http://www.universalsource.co.uk/show_article.php?id=86).

<sup>53</sup> G. Orwell, *Nineteen Eighty-Four* (London: Penguin Books, 1949).

<sup>54</sup> Aristotle, *Nicomachean Ethics* (1999), <http://classics.mit.edu/Aristotle/nicomachaen.html>.

<sup>55</sup> J.B. Elshtain, *Just War Theory* (Basil Blackwell, 1992).

<sup>56</sup> K. Knight, *The Summa Theologica of St Thomas Aquinas* (2003), <http://www.newadvent.org/summa/>.

- (i) right authority (a sovereign government, rather than individuals),
- (ii) just cause (to avenge wrongs or to restore what was unjustly seized), and
- (iii) right intention (the advancement of good or the avoidance of evil).

If we apply these criteria to the use of violence for political purposes, it appears we have a justification if all three criteria are met. Aquinas also laid the groundwork for other criteria that would eventually be integrated into the tradition.

The result of 1600 years of evolving tradition is a fairly complex set of criteria that govern both moral justifications for waging war (*jus ad bellum*) and moral conduct once engaged in war (*jus in bello*).<sup>57</sup> While just war proponents agree upon the criteria, there is often considerable variation in how the principles themselves are defined, not to mention how they are applied to particular cases. These principles may be roughly summarized as follows:

(a) *Jus ad bellum*

(i) *Legitimate authority.* Private individuals and groups are not permitted to take up arms against others, however justified their cause may appear. Only governments, those who have been entrusted with the public good, may wage war, and they must do it openly and legally.

(ii) *Just cause.* A government may wage war in self-defence, in defence of another nation, to protect innocents or to regain something wrongfully taken. The desire for personal glory or revenge or to impose tyrannical rule is never an acceptable cause for waging war.

(iii) *Right intention.* The ultimate end of a government in waging war must be to establish peace, rather than to use a “just war” as a pretext for its own gain.

(iv) *Last resort.* A governing authority must reasonably exhaust all other diplomatic and non-military options for securing peace before resorting to force.

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<sup>57</sup> M. Walzer, *Just and Unjust Wars*, 3<sup>rd</sup> ed. (Basic Books, 1977).

(v) *Reasonable chance of success.* A government may not resort to war unless its prospects for success are good. In this way, lives will not be needlessly wasted in the pursuit of a hopeless cause.

(vi) *Proportionality.* A government must respond to aggression with force only when the effects of its defensive actions do not exceed the damage done by the aggression itself.

(b) *Jus in bello*

(i) *Non-combatant immunity.* An authority waging war is morally obligated to seek to discriminate between combatants and non-combatants. While civilians unfortunately may sometimes come in harm's way, a government may never deliberately target them.

(ii) *Proportionate means.* This criterion pertains to specific tactics of warfare and seeks to restrict unnecessary use of force. It is intended to ensure that the military means used to achieve certain goals and goods are commensurate with their value, particularly when compared to the loss of life and destruction that could also occur.

While contemporary just war thinkers generally agree on these principles, changing political and military conditions often complicate their application. For instance, it could be said that war ought only to be waged in self-defence. But, how does one know if or when it is morally permissible to defend oneself pre-emptively or preventatively? Moreover, what does the criterion of "last resort" really mean? As the just war theorist, Walzer, has pointed out, "lastness" is a metaphysical concept that is never really achieved,<sup>58</sup> because another effort to avert war can always be attempted. This could be said for violence used for political purposes, as highlighted by Bonhoeffer, who believed that it is worse to be evil than to do evil. Bonhoeffer stated, with regards to his failed assassination attempt on Adolf Hitler on 24<sup>th</sup> July 1944, that "the destruction of the life of another may be undertaken only on the basis of an unconditional necessity", regardless of "how numerous or how good the reasons which weigh against it".<sup>59</sup>

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<sup>58</sup> Walzer, *op cit.*, p. 65.

<sup>59</sup> Singer, *op cit.*, p. 163.

It seems quite apparent that Bonhoeffer is referring to evil, considered so depraved that the option of killing that evil appears justified. King once said: "If your opponent has a conscience, then follow Ghandi and non-violence. But if your enemy has no conscience like Hitler, then follow Bonhoeffer."<sup>60</sup>

## Against Property

A much debated issue is whether violence against property can constitute violence. If a "violent" action prevents greater violence, for example, damaging slaughterhouse equipment, then whether it is actually violent at all comes into question.

In discussions of violence among protesters and at demonstrations one idea is continually left out of the debate: that violence against property is not violence. Violence, by nature, requires two sentient beings, capable of being hurt. In other words, a broken window only equals a loss of money to insurance companies. What this allows is the possibility of "social disobedience", an idea different from civil disobedience, because of its willingness to use acts of illegal social disturbance to express an anger repressed in the current cultural environment.

Sellers, the director for the Ruckus Society, trains people to commit acts of civil disobedience; and condones damage to property as an illegal, but non-violent, action. Sellers has taken part in more than 100 protests and has been arrested more than 20 times, the most recent being an incident involving Greenpeace. Greenpeace activists cut a 20km. drift net, in opposition to the industrial strip-mining occurring in the Mediterranean. In an interview with Nina Wu ("NW"), the San Francisco Examiner, Sellers ("JS"), explains the Ruckus Society's justification of damage to property thus:

**NW:** Where do you draw the line in how far you go in disobedience?

**JS:** I think when you endanger people, create a dangerous situation or the context for violence to happen, or a situation where people can get hurt, you're not being responsible. For me, it's not so much about property destruction, violence or non-violence; it's so people understand what you're doing with your

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<sup>60</sup> Craig von Buseck, *Bonhoeffer* (2005), [http://www.cbn.com/spirituallife/ChurchAndMinistry/ChurchHistory/Bonhoeffer\\_Agent\\_of\\_Grace.asp](http://www.cbn.com/spirituallife/ChurchAndMinistry/ChurchHistory/Bonhoeffer_Agent_of_Grace.asp).

actions. Sailing with the Rainbow Warrior, I got to cut a drift net that was 20 kilometres long and it was someone's private property.

NW: So that would be considered illegal.

JS: And it would be property destruction. The Boston Tea Party was property destruction. I don't think a lot of people debate about whether it was violent or non-violent. I think most people would say it was non-violent. When I cut that drift net, I would say that was a non-violent act. Did it destroy property? Yes. But Greenpeace has done a lot of work to create the political context for people to understand that action as a political, not a violent, act. When you're trying to mobilize a whole cross-section of society to be out in the streets with you, and a small group of people create a violent confrontation with police by smashing some windows, then I think it's not an intelligent, strategic act.<sup>61</sup>

It is argued that the physical force used to smash a window or burn an automobile is not violence because it is only property. As Munson said: "Smashing a window or...a store is not violent. You can't 'hurt' property. It is inanimate."<sup>62</sup> However, moral arguments concerning damage to property are straightforward. If such damage directly brings to light an injustice to the public, it would seem very difficult to raise convincing arguments against it.<sup>63</sup>

A healthy society requires that all citizens have a means to voice their complaints. The ability to exact change in government is fundamental to the democratic ideal. If a government enacts unjust laws, citizens are morally justified in resorting to civil disobedience. However, violent disobedience crosses the line of acceptability by placing at risk the lives of others who have subscribed to no such cause.

It may be argued that the use of violence within a democratic society for a means to a political end is an effective way of raising public awareness through the media. As Indira Gandhi once said, "the meek may one day inherit the earth, but not the headlines".<sup>64</sup> However, media

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<sup>61</sup> Nina Wu, *Raising a Ruckus, an Interview with John Sellers* (2002), <http://www.creativeresistance.ca/action/2002-june19-interview-with-john-sellers-ruckus-society-director.htm>.

<sup>62</sup> Carol Moore, *Return of Street Fighting* (1999), <http://www.carolmoore.net/sfm/> (1999).

<sup>63</sup> Arguments against the use of violence for political purposes are discussed further below.

<sup>64</sup> Mark Shepherd, *Gandhi* (1998), <http://www.markshep.com/nonviolence/quotes.html>.



representations follow their own logic, different from the logic of the events they seek to capture, blending information and entertainment in often highly problematic ways. Indeed, information is often a secondary issue: “The entire script content of the CBS nightly half-hour news”, Ignatieff reminds us, “would fit on three-quarters of the front page of the *New York Times*”.<sup>65</sup> This could be argued to mean that coverage by the media favours the concept of violence and surprise over the durable substance of the message the protestors are attempting to put across. It also privileges a specific key target audience: the television viewers of the western world, those with the spending power to sustain the networks’ advertisement rates and corporate profits. It is hardly surprising that not all forms of protest receive the same level of media attention, in particular, where governmental violence has occurred. There is a significant difference between coverage of activism that takes place peacefully and without incident, and coverage of activism that has turned violent.

Violence to property, then, though illegal, may be said to be justified as a non-violent offence. If we take property destruction to be not merely an act of senseless demolition, it can be argued that it is a legitimate cry for justice and a potentially powerful means of achieving it; famous examples of it include the Boston Tea Party, and the actions of the Ploughshares women.<sup>66</sup> However, as we shall determine in the next part of this paper, violence directed at people as a political means to an end is very difficult to justify. What gives us the right to disregard human compassion and direct anger and frustration at an injustice towards a person? Bonhoeffer declares that it is justified to take someone’s life if that person is considered evil and depraved, and would inflict harm on other fellow citizens. Although it may be easy to agree with Bonhoeffer’s theory when it comes to debating dictators such as Hitler and Pol Pot, it becomes a very different matter when it comes to debating ordinary citizens or the police.

### **3. Some specific instances of violence directed at people**

#### **(a) Ploughshares**

On 30<sup>th</sup> July 1998 four members of the British Ploughshares organisation were cleared of criminal damage. The four women, Andrea

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<sup>65</sup> M. Ignatieff, *The Warrior’s Honour: Ethnic War and the Modern Conscience* (Vintage, 1999), p. 26.

<sup>66</sup> Discussed further below.

Needham, Lotta Kronlid, Joanna Wilson and Angela Zelter, had broken into a British Aerospace factory and vandalised one of a shipment of 24 Hawk jets, destined for Indonesia, as a protest against that country's treatment of East Timor.<sup>67</sup> The four women had researched the plane, learning its control panel layout and serial number. Months were spent monitoring the security and general operations of the British aerospace site at Warton until the group were sure that they had located the exact plane destined for Indonesia. Once the women had made a positive identification, Jet ZH 955, the group broke into the hangar and set about destroying the war machine. The women methodically destroyed the plane's weapons system with hammers. The women placed banners over the plane, sang songs of peace and dropped small seeds (of hope) on the ground before leaving behind a video of Jon Pilger's documentary,<sup>68</sup> which contained images of the planes in action in East Timor, to highlight their cause.

The Ploughshares women argued that international law was binding on all states and was valid in Liverpool Crown Court, and that Indonesia was a systematic and persistent violator of international law and used BAe Hawks to carry out these violations. The women argued against violations of East Timor's right of self-determination, the illegal occupation of East Timor, violations of the Nuremburg Principles, including crimes against peace, war crimes, and crimes against humanity, human rights violations and the use of torture, and violations of the Hague Conventions and the 4<sup>th</sup> Geneva Convention. It was further argued that the British Government and British companies were complicit in these crimes in that Hawk jets had been knowingly sold to Indonesia. The most relevant argument used was the invocation of section 3 of the Criminal Law Act 1967: "A person may use such force as is reasonable in the circumstances in the prevention of crime ..."<sup>69</sup> The Ploughshares women argued that they were not breaking the law for a higher end; they were fulfilling their legal duty and availing themselves of their legal right to prevent crime.

In an act condemned by the UN, Indonesia invaded East Timor in 1975 and, since then, have killed more than a third of the population. In its epic, malfeasant effect on the fabric of a single society, the Indonesian genocide in East Timor was arguably one of the greatest crimes of the

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<sup>67</sup> Ploughshares, *Seeds of Hope* (2004), <http://www.plowsharesactions.org/webpages/weba.htm>.

<sup>68</sup> Gail Jarvis, *Thoreau, Lysistrata and Jesse Jackson* (2003), <http://www.lewrockwell.com/jarvis/jarvis41.html>.

<sup>69</sup> Home Office, *A Rough Guide to Police Law* (2005), <http://www.police-law.co.uk/law/police-law.nsf/>.

second half of the 20th century. Bonhoeffer's theory that it is better to do evil than to be evil provides a justification of this violent action towards property. Furthermore, the four women had exhausted all other "legal channels" by writing letters to the government, lobbying their MPs and taking part in peaceful demonstrations before they decided to take more drastic action. Although this action cannot be considered to be a war crime in that the killing of innocent people did not take place and war was not declared between nations, it can be argued that by using the just war theory as an analogy, the women fulfilled the criteria laid out by St Augustine for the requirements of a "just war". Jose Ramos-Horta, the spokesperson for the resistance leader Xanana Gusmao, now serving 20 years in an Indonesian jail, said of the four women: "In 20 years of resistance, we were never able to shoot down an aircraft. You did it without even firing a single shot and without hurting the pilot."<sup>70</sup> All legal channels were exhausted, the women took part in non-violent demonstrations and yet, by vandalising the jet, the women instantly gained popularity for their cause and were acquitted, proving that violence towards property, providing all other channels have been exhausted, is an effective means of raising awareness and preventing greater crimes.

In addition to this, on 6<sup>th</sup> August 1998, 30 people turned themselves in to the Welsh national police. Considering the acquittal of the Seeds of Hope Ploughshares women, they confessed to the crime of paying income and VAT taxes used for British nuclear programs, in violation of international law. The police declined to make any arrests.

### **(b) *Battle for Seattle***

The World Trade Organisation ("WTO") is a yearly gathering of the nations of the world to develop trade relations and policies and, normally, is conducted in a civilized manner. The WTO represents the New World Order, the effort to "integrate" the whole planet into a single dominant bureaucratic framework that overrides national and local governments, throws away sovereignty and disintegrates cultural, racial, and institutional fabrics. On 30<sup>th</sup> November 1999 thousands of people filled the streets of Seattle in a well-organized, non-violent, mass direct action that prevented most World Trade Organisation delegates from attending the conference, forcing its cancellation. During the course of these events, no more than 30 self-proclaimed anarchist youths out of 50,000 demonstrators broke

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<sup>70</sup> Green Left, *Four Women versus British Aerospace* (2005), <http://www.greenleft.org.au/back/1996/243/243p20.htm>.

windows of McDonalds, Nike Town and Starbucks, and sprayed graffiti on all surrounding buildings, both private and public. Police responded to the demonstrations with tear gas, rubber bullets, and pepper spray, but did not succeed in quelling the protests.

Though anarchism has historical roots in the 17th century, when Englishman Gerrard Winstanley established an anarchist village and called for the abolition of government and property,<sup>71</sup> 21st century anarchists point to the “Battle for Seattle” as the launching point for their own aggressive activism. Non-violent activists denounced their black-clad counterparts for destroying property and inciting public animosity. The Black Bloc, which cited police brutality as the precipitating cause of violence, argued that radical manoeuvres turned more heads than conventional ones. One anarchist boasted that “window-smashing” had inspired Seattle’s oppressed people “far more than any giant puppets or sea turtle costumes ever could”.<sup>72</sup>

If we apply Peter Singer’s theory that “the difficult issue is not whether the end can ever justify the means, but which means are justified by which ends”, it appears the means to the ends in this case are very much out of proportion. If only 30 anarchists used violence to demonstrate their cause in this event, the treatment of the other thousands of peaceful protestors can be argued to be an unjustified retaliation. The point of the demonstration was to be a peaceful blockade in a democratic country to prevent the WTO from going ahead, but the reaction of the police and military was to retaliate by using violence against the entire protest group. In addition to this unnecessary violence, the protestors were prohibited from demonstrating for the next two days, free speech was not allowed and stickers, banners, gas masks and leaflets were confiscated from the majority of the crowds, creating another uproar regarding the issue of free speech. It appears in this case that violence to property created an unexpected and unnecessary reprisal.

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<sup>71</sup> Bob Hartley, *Gerrard Winstanley* (2001), <http://www.spartacus.schoolnet.co.uk/STUwinstanley.htm>

<sup>72</sup> Stacia Brown, *Swinging Back* (2003), [http://www.sojo.net/index.cfm?action=magazine.article&mode=printer\\_friendly&issue=soj0207&article=02072](http://www.sojo.net/index.cfm?action=magazine.article&mode=printer_friendly&issue=soj0207&article=02072)  
2.

(c) *John Brown*

In his 1859 address, *A Plea for Captain John Brown*,<sup>73</sup> Thoreau examined the instance in which John Brown led a heavily armed attack against the federal arsenal at Harper's Ferry, West Virginia, in the hope of abolishing slavery. Brown was arrested after attacking the Harper's Ferry federal arsenal with twenty-two heavily armed men. Brown and his men took and held dozens of hostages, mostly prominent citizens from the area. Though his intention was to incite slaves to revolt, none joined Brown's cause. He and his men were quickly outnumbered by the military, and their quest ended in defeat. Brown himself was wounded and captured. It was at this point that Thoreau stepped in to advocate for Brown and his actions. In his address Thoreau painted a picture of Brown as a stark patriot, old-fashioned and hard-working. He praised Brown's efforts and demonized the government that "reveals itself a merely brute force".<sup>74</sup> Thoreau described Brown as a "heroic liberator" and the government "hypocritical and diabolical". To Thoreau, Brown had committed no crime, and was in no way worthy of the sentence given him.

However, this sentimental look at Brown ignores the problems that lie at the base of his crime. Brown did not simply risk his own life in his attack; he also put at risk the lives of those guarding the arsenal, the lives of all those he took hostage, and the lives of the troops sent to squelch his uprising and apprehend him.

In this lies the crux of the argument against violent disobedience. It is unjust for a man to infringe upon the rights of others in order to promote his own interests. All men have a right to life, and no man has a right to take that right from another. When John Brown took hostages, he put in jeopardy each of their rights to life. While this might have been the most expedient means to the end Brown desired, it did not make it morally permissible. The fact that Brown's cause, ending slavery, was just, in no way made it morally acceptable for him to take hostages. Brown's justification does not serve to set apart his act from others of its type. Thoreau's appeals to Brown's character and purity of intent serve merely to divert attention away from the real problems with Brown's attack.

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<sup>73</sup> Jone Johnson Lewis, *A Plea for Captain John Brown* (1995), [www.transcendentalists.com](http://www.transcendentalists.com), North Virginia.

<sup>74</sup> Dyzenhaus and Ripstein, *Law and Morality, Readings in Legal Philosophy* (University of Toronto Press, 1996), p. 563.

#### **(d) Gothenburg**

The events during and after the Gothenburg protests on 14<sup>th</sup> -16<sup>th</sup> June 2001 showed some of the features of revolution, as depicted on the scale above. The first gunshots were fired against demonstrators since 1931 in Sweden, 1,100 people were arrested, massive state propaganda portrayed the activists as “terrorists”, three people were shot and those prosecuted were held in solitary confinement for months and received custodial sentences ten times longer than usual. A number of diverse, disparate groups and individuals arrived in Gothenburg to protest against the successful attempts by the establishment to turn the world into a market place. Tens of thousands of people came on the streets of Gothenburg to peacefully protest against the neo-liberal agenda of the European Union (“EU”) against the right-wing policies of President Bush and against capitalism as a whole. The protesters, many wearing face masks, threw fireworks and stones at police, who fought back with clubs. Tim Robinson from Norway’s International Socialists and a member of the Gothenburg organizing committee, said of the protests:

When people are excluded, denied any voice in society, then denied the democratic right to protest and attacked by the police, they will fight back. We do not condemn people who fight back. The police were responsible for the violence.<sup>75</sup>

Even so, the violence had to begin somewhere. In this instance, it can be noted that, regardless of governmental influence on the viciousness of the police or the need to define “who started it”, violent activity was not a productive action to the cause. The means, in this case, did not justify the ends. It should also be noted that Sweden has one of the most peaceful democracies in Europe, and the use of water cannons and pepper spray, even by police, is illegal there. This seems to highlight that, regardless of democracy, violent protest will still occur. However, the issue is whether the action is less justified as a means of political protest in a democracy than in a state such as India before the Gandhian movement. It would appear that condoning the use of violence within a democratic society such as Sweden undermines the theory of “just” laws. If I condone violence as a means of political protest within my democracy, I disregard the

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<sup>75</sup> Paul McGarr, *Socialist Workers* (2003), <http://www.socialistworker.co.uk/1754/sw175412.htm>.

democratic process through which I am enabled to vote for which government I choose, through which I am enabled to speak freely and through which I am protected by law.

It is possible to apply Rawls' five criteria for the justifiability of civil disobedience, as discussed above, to these instances of violence, so as to attempt a justification. Rawls states, firstly, that the laws to which we object must be substantial and clear violations of justice. In the case of the Ploughshares women, the genocide committed in East Timor warranted their destruction of the Hawk jet and highlighted to the government the substantial violation of justice in that country. The Battle for Seattle and the Gothenburg riots began at the instance of left wing activists opposed to the globalisation corporations. Globalisation demeans individual societies, and removes the individuality of small towns and businesses. However, although a major issue in contemporary philosophy, it is difficult to argue that globalisation is a substantive injustice. With regards to John Brown, it can be argued that his determination to achieve the abolition of slavery demonstrates a very clear and substantial injustice to the negro population.

Rawls also determines that all other constitutional routes must have been tried and failed. It was noted that the Ploughshares women attempted all other legal channels before deciding to damage the jet. John Brown had campaigned for years regarding slavery, and also attempted other channels of constitutional change. Meetings between activist groups and "authorities" were held before both the Gothenburg and Battle for Seattle riots. It was agreed on both occasions that violence was not to occur, that the activists were to have a conference debating the issue after the meetings and that they would be allowed to protest without disruption. It can be argued, therefore, that the activists had exhausted constitutional routes.

Rawls asserts that the level of disobedience in the society must not have reached a threshold where the goal of the rule of law is threatened. It appears that this criterion was met by all four incidents, as the disobedience was prevented from getting to this point. Rawls also requires that the action must be controlled, and that it should be rationally framed so as to advance the ends addressed. The only instance in which control was exercised was the Ploughshares case, although there was a thwarted attempt to gain control on Harper's Ferry by John Brown. The riots began as peaceful protests, with organised demonstrations; however, no control was exercised during the smashing of buildings and it was difficult to maintain order. The riots in Gothenburg and Seattle did little in the way of preventing the summits from taking place; however, despite bad publicity,

people across the world were made more aware of the issue of globalisation. In this respect, although the action was not rational as such, the ends, in some respects, justified the means. Perhaps John Brown's taking of hostages can be described as a dramatic attempt to advance the ends addressed although it did little in the way of abolishing slavery.

It can be seen, by using Rawls's model of civil disobedience, that only the Ploughshares women fulfil all the criteria. Their premeditated action was a very successful attempt at highlighting the injustices in East Timor and, despite carrying out an illegal action, they were acquitted.

Governmental power is frequently violent in nature as we have seen from the case studies above, but it is primarily maintained through oppression and tacit compliance of the majority of the governed. Power itself is not derived solely through violence. Since silence and passivity are interpreted by the government as consent, any significant withdrawal of compliance will restrict or challenge governmental control. Struggle and conflict are often necessary to correct injustice. People's apathy in the face of injustice implicates them in the moral responsibility for that injustice. However, returning violence with violence forces groups to replicate structures of oppression and injustice which they oppose. The "enemy" is the system that convinces people that they have little choice but to play oppressive roles or work in military industries. A violent campaign must focus on the issues and the system, rather than on individuals caught up in that system.

When acts of civil disobedience are directed, not at political entities or nation states but, at property, the argument has been made that the justification for destruction must turn on risks the property poses to the general public. Acts of disobedience directed at thwarting the use of particularly dangerous products (such as the Hawk jets) are justified on the grounds that those acts represent the only morally tenable method available to stem an imminent threat to public welfare or safety. The legal argument justifying destruction of dangerous materials or property on the basis of public safety generally requires proving that the materials do in fact pose a serious risk of harm not abatable by other means.

This gives us a justification for the demolition of a Hawk jet. However, how is it possible to justify the actions of anarchists whose activities result in the widespread damage to public and private property, injury to innocent bystanders, and the deaths of participants? Hannah Arendt asserts that violence can be justifiable, but it will never be legitimate; "its justification loses in plausibility the farther its intended end



recedes into the future”.<sup>76</sup> On the other hand, Georges Sorel argues that proletarian violence is a “very fine and heroic thing”, serving the “immemorial interests of civilisation”.<sup>77</sup>

Despite the argument that violence and damage to property gains widespread media interest and, therefore, publicity for the cause, this is often not the case, as discussed above.

## Conclusion

In total, around 39 million people have been killed as a result of war and civil war over the past 500 years. In comparison, 151 million people have been killed by governments, an overwhelming majority of these killings perpetrated by governments against their own citizens.<sup>78</sup> This figure highlights the importance of violence in today’s society.

Gandhi believed that violence against the body or the spirit could best be met with passive resistance in which non-violence and steadfast resistance would be used to force the hands of an oppressor. When violence would escalate on the side of the oppressors, the world would see them for their evil intentions and truth would prevail. These tactics, used throughout Gandhi’s struggles against British rule in India and apartheid in South Africa, were ultimately victorious. When King used Gandhi’s techniques in the struggle against segregation in the American south a half century later, he, too, prevailed.

Pared down, the attitudes of civil disobedience, as practiced by King, and those of violent disobedience, as practiced by Brown, are fundamentally different. The civil disobedience practiced by King, though consisting of illegal acts, makes no attempt to usurp the power of government. King’s tactics rely on public awareness and the theory that the squeaky wheel gets the grease. As Thoreau said in *Civil Disobedience*, “if the alternative is to keep all just men in prison, or give up war and slavery, the State will not hesitate which to choose”.<sup>79</sup> King and Thoreau both felt that given enough of a reminder of injustice, government would be forced to reform.

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<sup>76</sup> H. Arendt, *On Violence* (Harcourt Brace and Co., 1970), p. 45.

<sup>77</sup> G. Sorel, *Reflections on Violence* (Cambridge University Press, 1999), p. 63.

<sup>78</sup> P. Hassner, *Violence and Peace* (Oxford University Press, 1995), p. 80.

<sup>79</sup> Thoreau, “Civil Disobedience”, in Bedau, *op. cit.*, p. 36.

Brown's violence, however, attempts to take justice into its own hands. Violent action, even when in support of a worthy cause, cannot be justly taken. The very nature of a violent act is that it bypasses the legal system and attempts directly to effect social change. The old saying that "two wrongs don't make a right" is very applicable in this situation. Though society may, indeed, be plagued with a grave injustice, that does not make it permissible for another injustice to be committed in the form of a violent act, even if it would serve to ease the injustice. We have seen that Brown's attack was neither justified nor successful. If Brown's attack *had* been successful, and he had been able to make slaves revolt, it would have had no effect on the moral permissibility of his action. Taking hostages and infringing upon others' right to life to reach a political end is never permissible, regardless of the outcome desired. When breaches of fundamental principles of justice are answered with intense political activism, "we applaud the perspicacity of the citizenry and the resiliency of democracy".<sup>80</sup> However, in Brown's case, it appears to have had the opposite effect.

The principle usually invoked to justify non-violence was the religious and moral belief that love is necessarily good and, hence, that violence by its very nature is evil, and that only love of others brings happiness and the realization of a moral self, while anger and violence debase the character of the agent as well as wound and kill others. It should be borne in mind, of course, that arguments which claim to show that violence is not in principle wrong are not arguments to show that violence is always right or that any certain degree of violence is right but no other. Indeed, as already stated, it is possible to believe that violence is not in principle wrong and still believe on prudential grounds that violence is not ever justified.

Former Justice Abe Fortas offered a new justification of non-violent dissent which does not view violence as necessarily wrong in all societies but as *unnecessary* in a free society like that in the United States of America or the United Kingdom. There is no *need* for disruption and destructive violence, he says, when there are constitutional and rational means of dissent in this society, unparalleled in previous history. Universal suffrage allows the majority of people to express their dissent by voting out of office those officials whose policies and commands are objectionable. Moreover, individuals and groups are guaranteed the right to bring pressure to bear on their government by writing, speaking,

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<sup>80</sup> M.L. Gross, *Ethics and Activism* (Cambridge University Press, 1997), p. 8.

organizing, picketing and demonstrating, provided only that laws governing public safety, etc., are obeyed. They may also challenge unjust laws through the courts, claiming that the laws are unconstitutional as well as unjust. When they sue the state or its officials, they are equals with the state in court and have the protection of elaborate procedural rights.

In protests against the Vietnam War, draft laws, poverty and the authoritarian structure of colleges and universities, the same pattern of increasing militancy is exhibited. The common theme in the campaigns of the activists is that they want more participation in the decisions which are always being made for them by someone else. They want more “participatory democracy” because they feel that their “representatives” and “public servants” have produced sham progress and usually apply double standards. They ask pointedly: Are not those who refuse to implement laws just as civilly disobedient as those who disobey laws, with the crucial exception that there are severe penalties for the one but none at all for the other? Many militants say that it is neither the system nor the judiciary that they are rejecting or have lost faith in; rather, they have lost confidence in, and now completely reject, those who have been making their political, economic, and social decisions for them.

Rejection and alienation are frightening symptoms in the body politic as well as in the individual. Sometimes they are the result of deep understanding or of ignorance or misunderstanding; at other times they are the result of deep injury, fancied grievances, righteous anger or blind and selfish rage. It is most crucial at this point in history to distinguish, more carefully than in the past, between these different origins and types of alienation so that they can be differentially and more effectively responded to.

On the whole, revolution, change, disobedience, and rebellion remain integral parts of government. Morally, individuals maintain a responsibility to act. From Mahatma Gandhi's fight in India to Rosa Parks' fight in Alabama, every human being holds the moral right to disobey. Socially, there exists no supreme government, which individuals may not correct or improve upon. Upon creation, a government accepts the responsibility to obey and support the people, and the people obey and support the government, sometimes through civil disobedience. As Thomas Jefferson stated, “a little rebellion now and then ... is a medicine necessary for the sound health of government”.<sup>81</sup> Politically, civil disobedience maintains the ideals of our government. Civil disobedience

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<sup>81</sup> S.E. Bronner (ed.), *Twentieth Century Political Theory* (Routledge, 1997), p. 573.

within a democracy remains morally, socially, and politically justified. The use of violence within a political protest cannot be justified as an effective means to an end.

Non-violent struggle is not easy and should not be thought of as a “safe” way to fight injustice. The strength of non-violence comes from the willingness to take openly personal risk without threatening other people. Acting against injustice should be done in a way that exemplifies our vision of a just and peaceful world and without the use of violence.

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